

STATE OF VERMONT  
PUBLIC SERVICE BOARD

CPG #NM-698

Application of Paul Kram for a certificate of )  
public good for an interconnected net metered )  
photovoltaic system )

Order entered: 12/2/09

**I. INTRODUCTION**

This case involves an application originally filed by Paul Kram ("Applicant") on June 26, 2009, requesting a certificate of public good ("CPG") pursuant to 30 V.S.A. §§ 219a and 248 and Vermont Public Service Board ("Board") Rule 5.100 for a net metering system. The net metering system consists of 4 pole-mounted photovoltaic arrays to be located on property owned by the Applicant's wife in East Thetford, Vermont (the "Project Property").

A copy of the application was sent, by the Applicant, to all parties as specified in the Board's Rule 5.100. The application stated that any party wishing to submit comments or request a hearing in this matter needed to file comments with the Board within thirty (30) days of the date that the application was sent.

On June 29 and July 30, 2009, the Board received letters from Robin Osborne and Mark Pichette, adjoining landowners to the south of the Project Property, expressing concerns with regard to the potential aesthetic impact of the project and requesting that the Board require a hearing prior to granting approval of this project.

On August 18, 2009, the Applicant filed a revised application which increased the system-rated output from 4.674 kW to 6.232 kW. The revised application also contains a more detailed description of the aesthetic impacts of the project.

On August 18, 2009, the Board received a letter from the Osborne-Pichettes restating their concerns regarding the potential aesthetic impact of the project and requesting a hearing on the revised project application. On August 26, 2009, the Board received a letter from Tyler Brown and Meg Olsen, adjoining landowners to the east of the Project Property, stating concerns regarding the potential aesthetic impact of the project.

On October 13, 2009, the Applicant e-mailed a response to the neighbors' comments on the revised application to the Board.

On November 10, 2009, Gregg Faber, the Hearing Officer appointed by the Board, conducted a site visit and prehearing conference in this matter. Parties in attendance at the site visit and prehearing conference were: Karla Bourland, wife of the Applicant; Laura Scanlan Beliveau, Esq., on behalf of the Vermont Department of Public Service; Tyler Brown and Meg Olsen; Robin Osborne and Mark Pichette; and Charles Alberro, an adjoining landowner.

## **II. FINDINGS**

Based upon the information in the record, including the application and its accompanying documents, the Board makes the following findings in this matter.

1. The proposed net metering project is located on property owned by the Applicant's wife, Karla Bourland, at 59 Evans Road in East Thetford, Vermont. Amended Application at Section 1.
2. The proposed photovoltaic system consists of 4 pole-mounted photovoltaic arrays and will be south facing. Amended Application at Section 4 and attachments.
3. The proposed project has a total system-rated power output of 6.232 kW AC. The facility will be interconnected with the Central Vermont Public Service Corporation electrical distribution system. Amended Application at Section 4 and attachments.
4. Each array will be approximately 12 feet in height and 10 feet in width. Amended Application at Section 8 and attachments.
5. The Applicant has certified that the project is in compliance with all of the provisions of Sections 3 and 8 of the application. Based on these submissions, we conclude that the project does not raise a significant issue with respect to the environmental criteria of 30 V.S.A. § 248. Application at Sections 3 and 8.
6. The Applicant has certified compliance with the insurance requirements as set forth in Section 3 of the application. Application at Section 3.

### **III. DISCUSSION & CONCLUSION**

The Board has received comments from the Osborne-Pichettes and the Brown-Olsens regarding the visual aesthetic impact of this proposed project. Board Rule 5.109(A) provides that the Board may hold a hearing for a net metering system when it determines that the system raises a substantive issue with respect to one or more of the criteria of 30 V.S.A. § 248. Pursuant to the Board's Order of April 19, 1999, in PSB Docket No. 6181, *"Investigation into the Use of a Net Metering System for the Purchase and Sale of Electricity from Small Electrical Generating Systems to and from Electric Companies,"* parties with objections or concerns must make a showing that the application raises a significant issue with respect to one or more substantive criteria applicable to the proposed net metering system. Accordingly, the Net Metering Application Form states that persons requesting a hearing regarding a net metering project "must make a showing that the application raises a significant issue regarding one or more of the substantive criteria applicable to the proposed net metering system."<sup>1</sup>

Pursuant to 3 V.S.A. § 811, the Board has read the record, including correspondence from the parties and the transcript of the prehearing conference, and we conclude that the Osborne-Pichettes and the Brown-Olsens have not shown that the project raises a significant issue. The proposed arrays, at approximately 12 feet in height and 10 feet in width, are relatively small. The visibility of the arrays from the Brown-Olsen residence, located approximately 400 feet east of the project site, will be largely obscured by the Applicant's home. The view of the project from the Osborne-Pichette residence, located approximately 1,000 feet to the south of the project site in an open field, will be largely unobstructed. However, given the relatively small size of the project and the topography of the area, it should not obstruct or block middle-range or long-range views of the area from the Osborne-Pichette residence to the north. Therefore, we conclude that the adjoiners have not shown that the application raises a significant issue with respect to the project's potential for adverse aesthetic impact. Even if we were to conclude that they had shown that the potential impacts of the project were adverse, they have not shown that those impacts could be considered unduly adverse. The adjoiners have not shown that the project is likely to violate any community standards, that it will be shocking or offensive to the average person, or that the Applicant had not attempted to mitigate the impacts of the project. Thus, we

---

1. State of Vermont Public Service Board Application for a Certificate of Public Good for Interconnected Net Metered Power Systems, at 1.

conclude that the adjoiners have not shown that the application raises a significant issue with respect to aesthetics.

The Osborne-Pichettes argue that while they "genuinely support the idea of using solar energy" they believe that the Applicant should be more willing to locate the system in a place that has less impact on the value of his neighbors' property ."<sup>2</sup> We agree that the project will be clearly visible from the Osborne-Pichette property. It will also be visible from the Brown-Olsen property, although largely obscured by the Applicant's home. However, the fact that the project will be visible from the Osborne-Pichette property and surrounding areas does not, in and of itself, amount to a showing that the project raises a significant issue under the substantive criteria of 30 V.S.A. § 248. The Applicant has also considered various alternative locations for the project.<sup>3</sup> However, given the largely open nature of the area where the proposed project is to be located and the proximity of the residences, it could not be reasonably sited to lessen the potential for aesthetic impact of the project on neighboring properties. Consequently, because we find that the project does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, further proceedings in this matter are unnecessary.

#### **IV. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the photovoltaic net metering system proposed by the Applicant, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont pursuant to 30 V.S.A. § 219a, and a certificate of public good to that effect shall be issued in this matter, pursuant to 30 V.S.A. §§ 219a and 248.

---

2. Letter to the Board (sent via e-mail) dated August 18, 2009.

3. Tr. 11/10/09 at 19-20 (Bourland).

DATED at Montpelier, Vermont, this 2<sup>nd</sup> day of December, 2009.

|                        |   |                |
|------------------------|---|----------------|
| <u>s/James Volz</u>    | ) |                |
|                        | ) | PUBLIC SERVICE |
|                        | ) |                |
| <u>s/David C. Coen</u> | ) | BOARD          |
|                        | ) |                |
|                        | ) | OF VERMONT     |
| <u>s/John D. Burke</u> | ) |                |

OFFICE OF THE CLERK

Filed: December 2, 2009

Attest: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*